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REPORT

of the

SPECIAL COMMITTEE ENTRUSTED WITH PRESENTING TO THE COUNCIL, IN CARACAS,  
AN EXCEPTIONAL REPORT ON THE HUMAN RIGHTS SITUATION IN LATIN AMERICA,  
PARTICULARLY IN ARGENTINA, CHILE, NICARAGUA AND URUGUAY

Rapporteur: Mr. I. Wane (Senegal)

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### WORK OF THE SPECIAL COMMITTEE

The Special Committee was established by the Inter-Parliamentary Council at its 124th session, held at Prague on 21 April 1979.

It is composed of representatives of the National Groups of Belgium, Costa Rica, Czechoslovakia, Mexico and Senegal.

It met at the Union's headquarters in Geneva from 10 to 13 July 1979.

#### Participation

##### (a) National Groups

The Mexican National Group had been unable to send a representative to the Special Committee's session due to the general elections held in Mexico on 1 July 1979.

The other National Groups on the Special Committee had sent the following representatives: *Belgium*: Mr. E. Cuvelier; *Costa Rica*: Mr. R. Madrigal Nieto; *Czechoslovakia*: Mr. B. Kucera; *Senegal*: Mr. I. Wane.

Mr. Madrigal Nieto and Mr. Wane were appointed respectively Chairman and Rapporteur of the Special Committee.

##### (b) Authorities of Argentina, Chile, Nicaragua and Uruguay:

The National Group of Nicaragua and the Governments of Argentina, Chile and Uruguay had been invited to delegate a representative to the Special Committee if they so desired. However, none of these authorities expressed the wish to send a representative to the session. Nevertheless, the Argentinian authorities had sent a memorandum outlining the Government's position regarding the human rights situation in Argentina.

##### (c) International organizations:

In accordance with practice and the Council's decision, the following international organizations had been invited to delegate a representative to the Special Committee: United Nations (Commission on Human Rights); United Nations High Commission for Refugees; International Labour Organisation; Organization of American States; Amnesty International; International Commission of Jurists; World Council of Churches.

The following international organizations had sent a representative:

*United Nations*: Mr. R. McCarthy, Special Assistant to the Director of the Division of Human Rights; *United Nations High Commission for Refugees*: Mr. R. Muller, Head of the American, Iberia and Oceania section, and Mr. L.

Franco, officer responsible for protection; *Amnesty International*: Miss P. Feeney, of the Latin America Research Department; *International Commission of Jurists*: Mr. A. Donadio, legal adviser for Latin America.

The following international organizations had sent either a memorandum or documentation: International Labour Organisation; Organization of American States; *Amnesty International*; International Commission of Jurists.

(d) Personalities invited in an individual capacity:

In accordance with practice and the Council's decision, various personalities had been invited to testify before the Special Committee regarding the situation of human rights in their country, namely:

*Argentina*: Senator Hipolito Solari Yrigoyen and former Deputy Anibal Augusto Iturrieta;

*Chile* : Senator Luis Valente Rossi; Senator Renan Fuentealba, who had also been invited, was unable to come to Geneva;

*Nicaragua*: The Archbishop of Managua; he was unable to reply to the invitation sent to him;

*Uruguay* : Senator Wilson Ferreira Aldunate and Senator Enrique R. Erro.

The personalities present had submitted memoranda on the situation of human rights in their respective countries.

Methods of work:

In accordance with the mandate given to it by the Inter-Parliamentary Council, the Special Committee firstly carried out a comprehensive review of the human rights situation in Latin America, and then considered the specific situation of the four countries named in the definition of its mandate, i.e. Argentina, Chile, Nicaragua and Uruguay.

In order to do this, it studied the written documentation sent to it and heard statements by the representatives of the international organizations and personalities invited.

Report of the Special Committee:

The members of the Inter-Parliamentary Council will find below the report prepared by the Special Committee upon the conclusion of its work. This report contains firstly a general part concerning the human rights situation in Latin America as a whole, followed by reports on the specific situation of Argentina, Chile, Nicaragua and Uruguay.

Each of these reports contains a statement of the various findings made by the Special Committee, followed by recommendations.

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REPORT

I - THE HUMAN RIGHTS SITUATION IN LATIN AMERICA

FINDINGS

A.

It emerges from the information gathered by the Special Committee that in several Latin American countries, despite the fact that some of them are parties to the International Covenant on Civil and Political Rights and the American Convention on Human Rights, the rule of law does not exist.

The present régimes, which in many cases took power by force, are repressive régimes which are not based on respect for the internationally recognized principles regarding human rights but on the so-called doctrine of national security which tends to privilege the power of the State and collective security at the expense of the individual and the values inherent in his dignity.

The advent of these régimes is generally preceded by increasing infiltration of the armed forces into the State apparatus and followed by the suppression of representative institutions, the suppression of political parties or the suspension of their activities, and by persecutions against their members. The armed forces are generally presented as the providential élite charged with the mission of mitigating the deficiencies of a civilian authority which has been declared unfit to guarantee national security.

Thereafter, the executive authority - entrusted either to a Governing Junta or a head of State with wide discretionary powers - begins to control legislative and judicial powers closely, and even to concentrate them directly in its hands.

The state of emergency is often maintained when it is no longer justified by the circumstances. Emergency legislation thus acquires a permanent nature and is used to legalize political repression.

The task of repression is assigned to the armed forces and the police but also, in many cases, to para-military and para-police forces, which act with complete impunity and often without co-ordination.

Military justice takes the place of civil justice which has been rendered inoperative by emergency legislation; legal remedies for protection (Amparo; Habeas Corpus) are also rendered inoperative.

These régimes tend to institutionalize this de facto situation through decrees or institutional acts which illegally amend the Constitution. Furthermore, in some countries, Constitutions are being prepared by the authorities and the drafts already published do not fully guarantee human rights.

These facts give rise to a number of consequences which affect human rights, particularly:

- Right to life: murders for political reasons are a common practice in several Latin American countries; the Special Committee's attention was particularly drawn to Argentina, El Salvador, Guatemala and Nicaragua. The murders are committed either by the regular security forces or their intelligence services, or by para-military or para-police groups. To the Special Committee's knowledge, these murders are generally not investigated seriously and impartially nor are their perpetrators or instigators punished. Such murders are in fact extrajudicial executions.

- Right to personal integrity: although the Universal Declaration of Human Rights and international, universal or regional legal instruments, to which some of the countries in question are parties, provide that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment", the Special Committee received information and, in certain cases, testimony which reveal that such practices are commonplace in several countries. The Special Committee received allegations of such practices - with considerable differences regarding the magnitude and frequency of the phenomenon - concerning Argentina, Chile, El Salvador, Nicaragua and Uruguay.

- Right to liberty and security of person: information received by the Special Committee reveals that kidnapping and arrests, often carried out by security agents acting anonymously and without a warrant and frequently followed by temporary or definitive disappearances, are a common practice in Latin America; that applications made on behalf of the victims (Amparo; Habeas Corpus) have no effect; that detainees remain at the disposal of the Executive for indefinite periods, often incommunicado and without access to any of the minimum guarantees generally accorded to persons under arrest.

- Particular case of disappeared persons: the phenomenon of disappearances for political reasons, which is a new form of repression, has grown increasingly in a number of Latin American countries, particularly in Argentina. Although there is abundant proof that disappearances generally follow arrest by State security forces, the governmental authorities deny any responsibility in this connection and impute the disappearances to action by opposing political factions. The courts refuse, or show themselves unable, to grant the appeals and applications by relatives of the victims, even when they have clear proof of arrest; in some cases, the military authorities state that disappearances are the price to be paid for national order and security.

- Right to justice and a proper and fair trial: according to information received by the Special Committee, a large number of persons detained for political reasons in the countries in question are held in detention, at the disposal of the Executive, without precise charges being brought against them and without trial; it also happens that they have no access to counsel or that such counsel is imposed by the court; when they are brought to trial, they are often brought before a military court, without guarantees of defence being fully respected.

- Right to reside in one's country or to leave it: the Special Committee received information which reveals that, on account of the foregoing, a large number of citizens of the countries in question are compelled to go into exile; that a large number are expelled from the national territory and prevented from returning; that, in some of the countries under consideration, the right to choose to leave one's country has been suspended. The universally recognized principle of non-expulsion has not always been respected in Argentina, Brazil, Chile, Paraguay and Uruguay.

- Collusion in repression: the Special Committee received information that in various countries of the Southern Cone there is collusion between their security organizations to repress persons sought for political reasons.

- Situation of parliamentarians: the above-mentioned facts have affected and affect a large number of parliamentarians whose cases have mostly been treated by the Inter-Parliamentary Council, which is seized of a new case, that of Deputy Alberto Fuentes-Mohr, who was murdered in Guatemala.

- Education, science and culture: in several countries, the contents of education programmes and the functioning of universities, schools, colleges and cultural institutes have been placed under the strict control of the military authorities and the police.

- Freedom of association: in several Latin American countries, albeit parties to the Conventions of the International Labour Organisation, trade union activity has been considerably reduced: trade union organizations have been dissolved or placed entirely under the control of the State; the main achievements of the labour movement, such as the right to strike, have been practically suppressed; and the labour movement itself tends to be fragmented as a result of the persecution of its leaders and the constraints imposed upon it. At its session in June 1979, the Governing Body of the International Labour Organisation was seized of complaints alleging violation of freedom of association in the following countries: Argentina, Chile, Colombia, Guatemala, Honduras, Nicaragua and Uruguay.

- Freedom of opinion and expression: in several countries, the freedom of opinion and expression has been widely reduced or suppressed; officials of Press organs are either persecuted or compelled to conform to the policy of the authorities and exercise self-censorship; in addition, strict censorship is often imposed.

- Economic and social rights: the economic policy of these régimes often has a negative impact on the social situation of the most disadvantaged social strata; it generates increased inequalities in living standards.

B.

- Foreign military and economic assistance: information available to the Special Committee reveals that most of the régimes considered receive considerable foreign military and economic assistance, despite the widespread violations of human rights for which they are responsible.

C.

Refugees: despite the generous welcome accorded to refugees by several countries, particularly in Latin America, their situation remains precarious and does not always give them the right to work.

Some Latin American countries have not yet acceded to the 1951 Convention on the Status of Refugees and to the 1967 Protocol, whose provisions supplement those existing in Latin America under various conventions on the right of asylum, and others have acceded to it with reservations as to its scope; most of the States parties to these two instruments do not yet have domestic legislation permitting the full implementation of all their provisions.

RECOMMENDATIONS

I. The Special Committee recommends to the Inter-Parliamentary Council to request the Governments of the countries considered above:

1. To restore forthwith the rule of law and in particular:

- To put an end to the state of emergency.\* The state of emergency should be lifted as soon as possible, particularly in the following countries: Argentina, Chile, Paraguay and Uruguay. The Special Committee also considers that the declaration of a state of emergency should be subject to parliamentary oversight and independent judicial oversight.

- To give full legal effect on their territory to the International Covenants on human rights and the American Convention on Human Rights;\*\*

- To restore constitutional rights and guarantees;

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\* At its 123rd session, the Inter-Parliamentary Council expressed the opinion that measures derogating from the International Covenant on Civil and Political Rights and the American Convention on Human Rights, authorized by Article 4 of the Covenant and by Article 27 of the Convention "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed", can only be of an exceptional and transitory nature.

\*\* The following Latin American States are parties:

(a) To the International Covenant on Civil and Political Rights:

Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Jamaica, Panama, Peru, Surinam, Uruguay, Venezuela

(b) To the American Convention on Human Rights:

Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Panama, Peru, Venezuela



- To restore the freedom of political parties and to re-establish representative institutions after a free and democratic electoral process;

- To restore and respect the independence of the judiciary.

2. - To put an end to the persecution of citizens for their opinions, to arbitrary arrests and to torture;

- To ensure that political murders and extrajudicial executions can no longer be perpetrated;

- To prosecute and punish those responsible for such practices;

- To bring all prisoners to trial, with all the guarantees set out in the International Covenant on Civil and Political Rights and in the American Convention on Human Rights, or to release them immediately;

- To put an end to the practice of arrests followed by disappearances and to provide full information about the situation of disappeared persons, as it is their duty to do so;

- To restore fully the legal remedies for protection (Amparo; Habeas Corpus);

- To put an end to expulsions and to enable exiles to return to their countries legally; to restore the right to choose to leave one's country where this right exists; to put an end to the practice of refusing passports to exiles or of granting them with restrictions;

3. To guarantee the right to intellectual freedom and, in particular, to respect freedom of opinion and expression and freedom of education.

4. To restore fully trade union rights and freedoms.

II. The Special Committee also recommends to the Inter-Parliamentary Council to request the National Groups:

1. To ensure the widest possible distribution of this report and, in particular, to bring it to the attention of their respective Parliaments and Governments so that they may take appropriate action; to make its contents known to public opinion;

2. To encourage the sending of parliamentary missions to the countries in question;

3. To urge their Governments to make all necessary representations to the authorities of the countries in question so that disappearances cease, such occurrences constituting a new method of repression;

4. To sponsor exiled Latin American parliamentarians in order to ensure their return to their countries;

5. To recommend to their Governments to refrain from granting military or financial assistance to the Governments of the countries in question, without prejudice to the humanitarian assistance given to the people of those countries;

6. To ensure that their respective States accede, if they have not already done so, as soon as possible and without reservations to the 1951 Convention on the Status of Refugees and the 1967 Protocol; that possible reservations are removed; and to promote, as soon as possible, domestic legislation permitting the implementation of these instruments;

7. To inform the Secretary General regularly of the measures taken and the results achieved.

III. The Special Committee lastly recommends to the Inter-Parliamentary Council to request the Secretary General to transmit this report and the decisions of the Council to the authorities of the countries mentioned therein, as well as to all competent organizations.

IV. The Special Committee suggests to the Inter-Parliamentary Council that it envisage including again in the agenda of one of its coming sessions consideration of the situation of human rights in Latin America.

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## II - ARGENTINA

### FINDINGS

On 24 March 1976, after a long process of infiltrating the State apparatus, the armed forces took power by force in Argentina. The reason given by the Junta which had acceded to power was the necessity of the anti-subversive struggle.

The National Congress and the provincial assemblies were immediately suppressed - it should be noted that general elections should have taken place at the end of 1976 and that the elected authorities should have taken office in May 1977; all elective responsibilities were rendered null and void and a large number of persons with such responsibilities were harassed; political activities were suspended; the judiciary was placed under the strict control of the military authorities; the General Confederation of Labour and many trade unions suffered the same fate. This situation continued to prevail when the Special Committee met.

The state of siege - which had been brought into effect on 6 November 1974 by the previous Government at a time when Parliament was not meeting, and without any restriction as to time or space - was maintained and is still in force, thus acquiring a permanent nature. The Special Committee notes that this situation is contrary to the provisions of the Argentinian Constitution. It also notes that since the Argentinian authorities themselves say that they control the situation in the country as a whole, the present circumstances are not of an exceptional nature and do not justify the maintenance of the state of emergency.

The political violence and repression which had characterized the last years of the previous Government were intensified as from the coup d'Etat. The following aspects in particular reveal the existence of repression:

#### 1. Disappeared persons

The practice of disappearances has acquired in Argentina a magnitude which is unprecedented in Latin America. The Special Committee considers that this problem is the most serious with regard to Argentina. According to Amnesty International, the number of victims is estimated at 15,000. Disappearances are either definitive or temporary, the person appearing subsequently in a prison at the disposal of the Executive. The authorities deny responsibility in this connection even when there is proof that the person was arrested by the security services. Legal remedies remain inoperative, with the result that the relatives of the victims are left in anguish. In a recent statement, quoted in the international Press, the commander-in-chief of the army, General Viola, said that missing persons should be regarded as "absent for ever". The Special Committee learned, however, that several persons who had reappeared after "disappearance" had testified to the existence of numerous secret concentration camps operating in military establishments in various parts of the country.

When kidnappings take place, security forces, which generally arrive in plain clothes and without a warrant, often ransack the homes of the victims, the booty being regarded as spoils of war.

The relatives of missing persons are often arrested themselves and harassed when they try to obtain information.

The Special Committee has learned that in many cases, young children whether or not arrested at the same time as their parents, have also disappeared or been thrown into the street. In addition, the number of children who were born in prisons and who have disappeared is also large.

2. Right to life

The Special Committee was informed that murders for political reasons are frequent in Argentina. The authorities sometimes claim that the persons murdered were killed in clashes between security forces and terrorists. Detainees are also often executed during transfers, on the pretext of attempted escape.

3. Right to personal integrity

Information received by the Special Committee reveals that the practice of torture in Argentina has acquired the dimension of an habitual practice. The prison system tends towards the moral and physical destruction of political prisoners. They are subject to the régime of "maxima peligrosidad" (maximum security) instituted by decree 2023 adopted in November 1974 and increased in scope in May 1976.

4. Right to liberty and security of person

According to the Government, there are 2,700 political prisoners in Argentina, but this figure may be lower than the real number. These persons are mostly detained at the disposal of the Executive for indefinite periods without any legal guarantees. Some of them are subject to re-education; according to a statement by the Minister of the Interior, "they volunteer".

5. Right to justice and a proper and fair trial

Due to repression, lawyers of political detainees are either detained or harassed and compelled to go into exile; as a result, lawyers are afraid to defend prisoners. Under decree 21264, councils of war have become competent to deal with certain categories of political prisoners, who do not have any guarantee of defence and no access to a civilian lawyer.

Legal remedies have proved to be inoperative. It should be noted, however, that, for the first time since 1976, the Supreme Court asked a Court of Appeal on 3 March 1979 to carry out an investigation into two applications for a writ of Habeas Corpus made on behalf of a missing person, Mr. Alfredo Antonio Giorgi.

6. Right to reside in one's own country or to leave it

Hundreds of thousands of Argentinians have been compelled to leave the country as the result of repression. The Government has revoked the constitutional right to choose to leave the country for political prisoners at the disposal of the Executive; subsequently, it decreed that this right depended on the Executive; new legislation makes persons who have benefited from this right liable to four years' imprisonment in the event of their return. Furthermore, the Argentinian Government's refusal to grant the necessary safe-conducts to persons who have found asylum in embassies is contrary to a norm recognized in inter-American law.

7. Persecution of refugees

The Special Committee has learnt that a large number of refugees, particularly Bolivians, Chileans, Paraguayans and Uruguayans, have been persecuted in Argentina. In many cases, these persons have been handed over by Argentinian security forces to the security forces of their own countries; some have been found murdered in their own countries.

The Special Committee wishes particularly to mention the cases of General Carlos Prats Gonzalez, commander-in-chief of the Chilean army; General Juan José Torres, former President of Bolivia; Senator Zelmar Michelini and the President of the Uruguayan House of Representatives, Hector Gutierrez Ruiz, who were murdered in Argentina.

The Special Committee also wishes to recall the case of Senator Enrique R. Erro which was examined by the Inter-Parliamentary Union in 1977, in accordance with the special procedure for communications: Senator Erro, who was a refugee in Argentina, was arrested in that country and kept in detention for two years under the régime of "maxima peligrosidad" (maximum security) without ever being charged, before his expulsion from the country without any explanation; he was ill-treated.

8. Situation of parliamentarians

A number of Argentinian parliamentarians have been arrested, tortured, murdered or kidnapped. Under its procedure for communications regarding individual situations which has been in force since 1 January 1977, the Inter-Parliamentary Union has had before it several cases regarding which the following facts should be recalled: Deputy Mario Abel Amaya died in prison from the effects of torture; Senator Luis Carnevali is reported missing; Senator Hipolito Solari Yrigoyen, who is now forbidden to return to Argentina, was kidnapped on 7 August 1976, imprisoned and tortured, and then released in April 1977; Deputies Julio Mera Figueroa and Manuel Isauro Molina were imprisoned in April and December 1976 respectively and then released in November and March 1978 respectively. It is to be hoped that the Argentinian Government will also release in the near future Deputies Juan Ramirez, who has been in prison since March 1976, and Antonio Isaac Guerrero, in prison since 1977.

The Special Committee has received specific information concerning Deputy Elvio Lumello who is said to be at the disposal of the Executive, and former Deputy Carlos Kunkel who is reported to have been brought to trial; provincial Deputies Orlando Stirneman, Victor Marchesini, who are detained at the disposal of the Executive, and Mario Medina who is being brought to trial; former President of the Chamber of Deputies and former constitutional President of the Republic, Hector J. Campora, who took refuge in the Mexican Embassy and to whom the authorities refuse to grant a safe-conduct to leave the country.

9. Freedom of expression

The Special Committee has been informed that, due to repression, self-censorship is widely practised. About a hundred journalists and many writers are reported to have disappeared or to be detained.

10. Freedom of association

The trade union organizations have been placed under strict military control; the right to strike is practically suspended and its exercise is regarded as subversive.

Since 1976, the Governing Body of the International Labour Organisation has been seized of numerous complaints alleging violation of freedom of association in Argentina. The last report, presented by the Committee on Freedom of Association and approved by the Governing Body in May-June 1979, dealt with the detention or disappearance of trade unionists and former trade unionists, the taking over of trade union organizations and restriction on trade union activities, as well as with arrests for calling a general strike.

11. Economic and social rights

According to information received by the Special Committee, the living standards of the workers have considerably deteriorated since the coup d'Etat.

RECOMMENDATIONS

I. The Special Committee recommends to the Inter-Parliamentary Council to request the Government of Argentina:

1. To repeal the repressive legislation and to restore the rule of law and the representative institutions founded on the sovereignty of the people;

2. To provide full information about the situation of all disappeared persons; to give, in particular, information about the fate of Senator Luis Agustin Carnevali;

3. To publish the complete list of persons detained for political reasons or trade union activities and who are at the disposal of the Executive or brought to trial;

4. To put an end to torture, kidnapping and persecution and to prosecute those responsible for such acts; to humanize the prison system;

5. To bring political prisoners to trial in accordance with a procedure which respects human rights or to release them and particularly: national Deputies Juan Manuel Ramirez, Antonio Isaac Guerrero and Elvio Lumello; former Deputy Carlos Kunkel; provincial Deputies Orlando Stirneman, Victor Marchesini and Mario Medina;

6. To respect the right of asylum and to grant a safe-conduct to the former President of the Chamber of Deputies and former constitutional President Hector J. Campora;

7. To respect the right to life and security, as well as individual guarantees;

8. To respect the right to live in one's own country or to leave it;

9. To restore freedom of opinion and expression and in particular to provide full information about the situation of detained or missing journalists, particularly Rodolfo Walsh, Haroldo Conti, Julian Delgado, Edgardo Sajon and Luis Rodolfo Guagnini.

10. To restore political activities and to put an end to the control exercised over trade union organizations.

II. The Special Committee recommends to the Inter-Parliamentary Council to request the National Groups:

1. To take measures to accelerate procedures for the admission of Argentinian political refugees and emigrants;

2. To ask their Governments to denounce in international bodies the violations of human rights for which the Argentinian Government is responsible, and particularly the practice of disappearances, and to exert pressure on the Argentinian Government so that it puts an end to that situation.

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